IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Criminal Misc. Application No.474 of 2005

Vinod Kumar
s/o Shri Ram Lal
R/o Mission Compound
Tehsil and District Saharanpur

Applicant

Versus

State of Uttaranchal Respondent

Hon'ble B.C.Kandpal, J

By way of this petition Under Section 482 Cr.P.C the petitioner has prayed for modifying the order dated 3.6.2005 passed by District and Sessions Judge, Haridwar in Criminal Revision no. 87/2005 Vinod Kumar Vs State of Uttaranchal.

Brief facts giving rise to this petition are that the car bearing No. DL 2 CC-4672 (old registeration No.) now with new Registeration No. UP 11D-7565 belongs to the petitioner. This car was seized in case crime No. 24 of 2004 under Section 60 of Excise Act. An application was moved by the petitioner for the release of the car before the Judicial Magistrate. The learned Judicial Magistrate directed that the owner should submit the insurance papers and driving licence.

It reveals that the driving licence was fake, therefore the learned Magistrate rejected the release application vide order dated 17.1.2005.

Against the rejection order of release dated 17.1.2005 a revision was preferred before Sessions Judge, Haridwar. The revision was allowed by the learned Sessions Judge vide order dated 3.6.2005. The learned Sessions Judge while allowing the revision imposed a condition that if any proceedings of confiscation under Section 72 (2) of Excises Act are not pending then the trial court will ask for the undertaking from the vehicle owner to produce the vehicle in the proceedings under Section 72 (2) of Excise Act.

Pursuant to the aforesaid order dated 3.6.2005 passed by the learned Sessions Judge, the petitioner moved release application before the court below. The trial court directed that if no confiscation proceedings under Section 72 (2) of Excise Act are pending , then the vehicle be released in favour of the registered owner.

Feeling aggrieved by the aforesaid order this petition has been preferred by the petitioner before this Court.

Heard learned counsel for the petitioner, learned AGA and perused the record.

The petitioner has not disputed this fact that the proceedings under Section 72 (2) of Excise Act are pending. In case if the proceedings are pending before the competent authority then the court below has rightly rejected the application of the petitioner. The petitioner has a remedy tomove the application for the release of the vehicle before the competent authority where the confiscation proceedings under Section 72 (2) of the Excise Act are pending.

I do not find any illegality, impropriety and incorrectness in the order passed by the learned court below. There is no abuse of process of court.

The learned counsel for the petitioner could not point out that any mandatory provisions of law has not been followed by the learned court below.

The petition lacks merit and is liable to be dismissed.

Accordingly the petition is dismissed.

(B.C.Kandpal,J)

5.12.2005

nbj